

REMARKS

INTRODUCTION

In accordance with the foregoing, claims 1 and 37 have been amended. Claim 38 has been added. Claims 1-38 are pending and under consideration.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

The Applicants request entry of this Rule 116 Response because:

the amendment to claim 37 was not earlier presented because the Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed.

The Manual of Patent Examining Procedure sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedure further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim et al. (U.S. Patent No. 6,623,092 – hereinafter Kim) in view of Tsukuda (U.S. Patent No. 6,234,615).

On page 3, the Office Action states, "however, Kim et al. does not disclose that a first volume is larger than a second volume." Page 4 of the Office Action states, "the medium 122 of Kim et al. does not include a cut-out corner at the connecting hole 112 so that the medium 122 does not create a first volume and a second volume as claimed."

On page 4, the Office Action asserts that Tsukuda makes up for the deficiencies of Kim.

Although Tsukuda discusses an ink injection device, Tsukuda fails to teach or suggest "...wherein a first volume is larger than a second volume" as recited in independent claim 1, for example.

In Fig. 3, Tsukuda shows a first chamber 30A and a second chamber 30B. Tsukuda discusses moving excessive ink from the second chamber 30B to the first chamber 30A. Tsukuda in col. 9, lines 4-12 states:

Further, if the ink amount held in the ink absorber 32 contained in the first chamber 30A is **larger than** the ink holding amount of the ink absorber in the gas-liquid replacement state, the ink of the excess amount is extracted through the communicating passage 30T from the needle 31B to the outside. Consequently, at this moment, interface between gas and liquid of the ink absorber is the **same** as the interface at the time of gas-liquid replacement state when the tank part alone operates as an ink tank (*emphasis added*).

Thus, Tsukuda teaches away from the limitations of the first volume in the first chamber is larger than a second volume in the second chamber.

Neither Kim nor Tsukuda, individually or combined, recite "...wherein a first volume is larger than a second volume" as recited in independent claim 1, for example.

Withdrawal of the foregoing rejections is respectfully requested.

NEW CLAIM

New claim 38 recites that the features of the present invention include "the negative pressure generating medium contacting the third face." Nothing in the prior art teaches or suggests such. It is submitted that these new claims, which are different and not narrower than prior filed claims distinguishes over the prior art.

CONCLUSION:

In accordance with the foregoing, the Applicants respectfully submit that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, the Board should enter this Amendment at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: 

Michael J. Badagliacca
Registration No. 39,099

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501